1999.

SUPREME COURT OF THE UNITED STATES.

No. 91.

THE UNITED STATES, APPELLANT,

VERSUS

WILLIAM GIBSON ET AL., HEIRS OF FRANCIS P. FATIO, DECEASED.

APPEAL FROM SUPERIOR COURT OF EAST FLORIDA.

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Before the honorable the judge of the superior court for the eastern district of Florida, and specially authorized by law to receive and adjudicate claims and titles to land in the district of East Florida.

Be it remembered, that on the twenty-third day of January, the year of our Lord one thousand eight hundred and twenty nine, William Gibson, Sophia Flemming, widow of George Flemming, deceased; Lewis, Mary, and George Flemming, children of the said George Flemming, deceased, and said Sophia Flemming, all heirs of Francis Philip Fatio, deceased, by Benjamin A. Putnam, their attorney, brought and filed in the clerk's office of the superior court for the eastern district of Florida their petition or claim to certain land therein mentioned; which said petition or claim is in the words and figures following, to wit:

PETITION FOR CONFIRMATION OF CLAIM.

Superior Court for the District of East Florida:

WILLIAM GIBSON, SOPHIA FLEMMING, widow of George Flemming, dec'd, LEWIS, MARY, and GEORGE FLEMMING, children of said George Flemming, dec'd, and said Sophia Flemming, all heirs of Francis Philip Fatio, deceased,

vs.

THE UNITED STATES.

} *Land claim.*

To the honorable Joseph L. Smith, judge of the superior court for the district of East Florida, and specially authorized by law to receive and adjudicate claims to lands within said district.

The petition of the said William Gibson, Sophia, Lewis, Mary, and George Flemming respectfully showeth unto your honor:

That they claim title to a tract of land containing ten thousand seven hundred and sixty-two acres, within the district of East Florida aforesaid, and within the jurisdiction of this honorable court, situated on the south branch of Nassau river; the first line runs north 73° west, beginning at a tulip, marked with a cross, on the bank of said river, and ending at a laurel, having the same mark, and measures three hundred and sixteen chains; the second line runs south 17° west, beginning at the said laurel, and ending at a stake having the same mark, and bounding with the lands of one Navet David, and measures seventy-seven chains; the third line runs south 17° west, beginning at a stake, marked with a cross, that stands in the line of the said Navet David, and ending at a pine having the same mark, and measures one hundred and twelve chains; the fourth line runs north 73° west, beginning at the said pine, and ending at another having the same mark, and measures eighty two chains; the fifth line runs south 17° west, beginning at the said pine and ending at another, having the same mark, and measures ninety-three chains; the sixth line runs south 73° west, beginning at said pine, and ending at another with the same mark, and measures four hundred and twenty chains; the seventh line runs north 17° east, beginning at the said pine and ending at a tulip, marked with a cross, on the bank of the said south branch of Nassau river, and measures one hundred and twenty-seven chains. The front of this tract of land runs to the border or bank of the said south branch of said river.

And your petitioners, that is to say, the said Sophia, Lewis, Mary, and George Flemming, further show unto your honor, that they claim title to one undivided moiety or half of said tract of land as heirs of the said Francis Philip Fatio and the said George Flemming, deceased; and your petitioner, the said William Gibson, claims title to the undivided moiety or half of said tract of land, as heirs also of the said Fatio, deceased, and as the share or portion allowed and awarded to him in the division made of the property of the said Fatio, deceased, among his heirs.

And your petitioners further show unto your honor, that their title to said tract of land is derived from and founded upon two English grants, and that the said tract of land containing as aforesaid ten thousand and seven hundred and sixty two acres, is formed, and consists of two original grants, but adjoining to and connected with each other, the one containing ten thousand, and the other seven hundred and sixty-two acres of land. That the said tract of ten thousand acres was originally granted to one Robert Paris Taylor by an order of the King of Great Britain made in council, directed to said James Grant, by James Grant, governor and commander in chief of the province of East Florida, and while the said province was under the dominion of the British crown, by concession or grant, marked exhibit A, bearing date the eighteenth day of April, in the year of our Lord one thousand seven hundred and seventy one, which said grant was surveyed to the said Robert Paris Taylor, as by certified plat thereof attached to said grant, and herewith filed, and was duly recorded in the register's office of the said province of East Florida, within the time prescribed in said grant.

And your petitioners further show that the said Robert Paris Taylor, did, on the twenty-third day of July, in the year of our Lord one thousand seven hundred and seventy, by a conveyance marked exhibit D and E, convey and transfer said tract of land to one John Thomas, who, by conveyance marked F and G, and dated the eleventh day of August, in the year of our Lord one thousand seven hundred and seventy, convey said tract of land to the said Francis Philip Fatio, deceased, and one Joachim Noel Fainim, from whom the said Francis Philip Fatio, deceased, bought his (Fainim's) interest in and to said tract of land; but your petitioners aver and declare that the deed of conveyance from said Fainim to said Fatio has been, by some accident or other, lost or destroyed.

And your petitioners further show that the said tract of land containing seven hundred and six y-two acres, and forming as aforesaid part of the said tract of land claimed by your petitioner, and containing as aforesaid ten thousand seven hundred and sixty two acres, was originally granted to the said Francis P. Fatio, by Patrick Tonyn governor and commander in chief of the said province of East Florida, and while the said province was under the dominion of the British crown, by concession or grant marked exhibit H, dated the twenty seventh day of March, in the year of our Lord one thousand seven hundred and seventy five, and which said tract of land was surveyed to the said Fatio, as by certified plat thereof attached to said grant, and duly recorded in the register's office of the said province of East Florida, within the time prescribed in said grant.

And your petitioners further show that, after the cession of the Floridas by the British to the Spanish Government, in the year of our Lord one thousand seven hundred and eighty-three, the said Government of Spain, by royal order dated the fifth day of April, in the year of our Lord one thousand seven hundred and eighty-six, granted to all foreigners, inhabitants of

said province of Florida during the British Government therein, the liberty of remaining protected in the possession of their lands and property, under the condition of their taking the oath of allegiance to the Government of Spain.

And your petitioners further show that the said Francis P. Fatio, from whom the title of your petitioners to said tract of land is derived, was a British subject, and inhabitant of the province of East Florida during the British Government therein, and in possession of said lands; that, after the said cession of Florida by the British Government of Spain, the said Fatio remained in the said province of East Florida, and took the oath of allegiance to Spain and continued to live within said province of East Florida, and in possession of said land until his death.

And your petitioners further shows that the title of the said Fatio to said land was recognized and held as valid by the Government of Spain, and that Pedro Marrot, surveyor general of the Spanish Government in and for the said province of East Florida, in virtue of the powers in him vested, surveyed to the said Fatio said tract of land, embracing in one survey, marked exhibit K, the said two grants, on the twenty-ninth day of March, in the year of our Lord one thousand seven hundred and ninety-three.

And your petitioners further show that they have, by themselves and those under whom they claim and derive title, been in possession of said land from the period of its being granted up to the present time.

And your petitioners further show that on the division marked exhibit M, of the property and estate of the said Francis P. Fatio among his heirs, made on the twenty-ninth day of May in the year of our Lord one thousand eight hundred and twenty, the said tract of land herein claimed by your petitioners was awarded to the said George Flemming, deceased, and the said William Gibson, heirs of said Francis P. Fatio, deceased.

And your petitioners further show that their claim to said land was submitted to the examination of the board of commissioners appointed under and in virtue of an act of the Congress of the United States of America, entitled "An act amending and supplementary to an act for ascertaining claims and titles to lands in the Territory of Florida, and to provide for the survey and disposal of the public lands in Florida," passed the third day of March, in the year of our Lord one thousand eight hundred and twenty-three, and has been by said commissioners reported and recommended by them to Congress for confirmation; which said report, marked exhibit P, is herewith filed.

And your petitioners further show that the said land claimed by them, and situated as aforesaid, within the district of East Florida, and within the jurisdiction of this honorable court, is embraced by the treaty between Spain and the United States, of the twenty-second day of February, one thousand eight hundred and nineteen; that their claim to said land has not been decided or finally settled under the provisions of the act of the Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," passed the twenty-third day of May, in the year of our Lord one thousand eight hundred and twenty-eight, or of any of the acts to which the last recited act is supplementary; that the tract of land so claimed by your petitioners contains a greater quantity of land than the commissioners appointed under the said act of Congress were authorized to decide, and above the quantity confirmed by the aforementioned act of Congress passed the twenty-third day of

May, in the year of our Lord one thousand eight hundred and twenty-eight, and that the said claim of your petitioners to the said land has not been reported by the said commissioners appointed under any of the aforesaid acts of Congress, or any other, or by the register and receiver acting as such under the several acts of Congress in such case made and provided, as antidated or forged; and that the said claim hath not been annulled by the aforesaid treaty between Spain and the United States, nor by the decree ratifying the same.

Wherefore, your petitioners pray that the validity of their claim to said land may be inquired into, and decided upon, by this honorable court; and that, in pursuance of the act of Congress for that purpose made and provided, the United States be made a party to this petition, and that process in this behalf do forthwith issue against Thomas Douglass, esquire, the attorney of the United States in this eastern district of Florida, according to the provisions of the said act of Congress above referred to. And your petitioners will ever pray, &c.

B. A. PUTNAM,
Attorney for Petitioners.

GRANT TO ROBERT PARIS TAYLOR FOR 10,000 ACRES.

Exhibit A.

EAST FLORIDA:

George the third, by the grace of God, of Great Britain, France, and Ireland, King, Defender of the Faith, and so forth, to all whom these present shall come, greeting:

Know ye, that we, of our special grace, certain knowledge, and mere motion, have given and granted, and, by these presents, for us, our heirs and successors, do give and grant unto Robert Paris Taylor, esquire, his heirs and assigns, a plantation or tract of land containing ten thousand acres, in our province of East Florida, situate on the south side of the south branch of Nassau river, about ten miles above the forks, and hath such shape, form, and marks as appears by a plat thereof hereunto annexed, together with all woods, underwoods, timber, and timber trees, lakes, ponds, fishing waters, water-courses, profits, commodoties, appurtenances, and hereditaments, whatsoever thereunto belonging, or in any wise appertaining; together, also, with privilege of hunting, hawking, and fowling in and upon the same, and all mines and minerals whatsoever; saving and reserving; nevertheless, unto us, our heirs and successors, all white pine trees, if any should be found growing thereon; also, saving and reserving to us, our heirs and successors, all mines of gold, silver, copper, lead, and coals; to have and to hold the said plantation or tract of ten thousand acres of land, with all and singular other the premises hereby granted unto the said Robert Paris Taylor, his heirs and assigns forever, in free and common soccage, the said Robert Paris Taylor, his heirs and assigns, yielding and praying therefor unto us, our heirs or successors, or to our receiver general for the time being, or to his deputy or deputies for the time being, the annual quit-rent of one half penny sterling per acre, payable on the feast of St. Michael in every year, to commence and become payable upon one half of said land, on the feast of St. Michael, which shall first happen after the expiration of five years from

the date hereof, and to be payable on every ensuing feast of St. Michael, or within fourteen days after, and the whole quantity to be subject in like manner to the like quit-rent at the expiration of ten years, provided always, and this present grant is upon condition nevertheless, that the said Robert Paris Taylor, his heirs and assigns, shall and do settle the lands hereby granted with protestant white inhabitants within ten years from the date hereof, in proportion of one person for every hundred acres; that if one-third of the land is not settled with protestant white inhabitants in the above mentioned proportion, within three years from the above date hereof, the whole be forfeited to us, our heirs and successors; that such part of the whole as is not settled with protestant white inhabitants at the expiration of ten years from the date hereof to revert to us, our heirs, and successors; provided, also, if this grant shall not be duly registered in the register's office of our said province within six months from the date hereof, and a docket also entered in the auditor's office of the same; that then this grant shall be void, any thing herein contained to the contrary notwithstanding.

Given under the great seal of our province of East Florida. Witness, our trusty and well beloved James Grant, esquire, governor and commander in chief in and over our said province, this eighteenth day of April, in the year of our Lord one thousand seven hundred and seventy one, and in the eleventh year of our reign.

[SEAL.] JAMES GRANT.

Signed by his excellency the governor in council.

DAVID YEATS, *Deputy C. C.*

REGISTER'S OFFICE.

Recorded in book D, page 188, the 4th day of May, 1771.

DAVID YEATS, *Pub. Register.*

(Here follows the annexed plat and certificate.)

EAST FLORIDA:

Pursuant to a warrant from his excellency James Grant, esquire, captain general and commander in chief in and over his Majesty's aforesaid province, to me directed, bearing date this third day of June, 1768, I have caused to be admeasured and laid off unto Robert Paris Taylor, esquire, a tract containing ten thousand acres of land, situated on the south branch of Nassau river, about sixty miles northwestwardly from St. Augustine, bounded on all sides on vacant lands, and hath such marks, both natural and artificial, as are represented in the above. Certified, this twelfth day of November, 1768, by

B. S. W. BRAHM.

LEASE AND RELEASE FROM ROBERT P. TAYLOR TO JOHN THOMAS.

Exhibits D and E.

Being indentures of lease and release from Robert Paris Taylor to John Thomas, for the land in the foregoing grant and plat of survey set forth, but, being written on parchment, are so much eaten, or otherwise destroyed, as to render it impossible to copy them.

The proof of their execution, annexed to the same, and the certificate of their having been recorded are as follows, to wit:

To all to whom these presents shall come, I, Bass Crosby, esquire, lord mayor of the city of London, in pursuance of an act of Parliament made and passed in the fifth year of the reign of his late Majesty, King George the Second, instituted an "Act for the more easy recovery of debts in his Majesty's plantations and colonies in America," do hereby certify that, on the day of the date hereof, personally came and appeared before me, Thomas Paul Phillips, the deponent named in the affidavit hereunto annexed, being a person well known, and worthy of good credit, and by solemn oath, which the said deponent then took before me upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed affidavit. In faith and testimony whereof, I, the said lord mayor, have caused the seal of the office of mayoralty of the said city of London to be hereunto put and affixed, and the indentures of lease and release mentioned and referred to in and by the said affidavit to be hereunto also annexed. Dated in London, the first day of December, in the year of our Lord one thousand seven hundred and seventy.

[SEAL.] HODGES.

Thomas Paul Phillips, of great Queen street, Lincoln's Inn Fields, in the county of Middlesex, gentleman, one of the subscribing witnesses to certain indentures of lease and release bearing date on or about the twenty fourth day of July, one thousand seven hundred and seventy, made between Robert Paris Taylor of Grately Lodge, in the county of Hants, esquire, of the one part, and John Thomas, lieutenant of his Majesty's royal regiment of artillery, of the other part, purporting that the said Robert Paris Taylor had, and thereby did bargain, sell, and assign unto the said John Thomas, his heirs and assigns, ten thousand acres of land situated, lying, and being in the south branch of Nassau river, in the province of East Florida, maketh oath that he, the said Thomas Paul Phillips, was present, and did see the said Robert Paris Taylor sign, seal, and deliver unto the said John Thomas the abovementioned indentures of lease and release.

THOS. PAUL PHILLIPS.

Sworn, the 1st day of December, 1770, before me, at my mansion house, London.

BASS CROSBY, *Mayor.*

EAST FLORIDA, *St. Augustine, Register's Office.*

Recorded in book G, page 155 *a* 164, the 13th day of April, 1774.

DAVID YEATS, *Pub. Reg.*

LEASE FROM JOHN THOMAS TO F. P. FATIO.

Exhibits F and G.

This indenture made the tenth day of August, in the tenth year of the reign of our sovereign Lord, George the Third, by the grace of God, of Great Britain, France and Ireland, King, defender of the faith, and so forth, and in

the year of our Lord one thousand seven hundred and seventy, between John Thomas, lieutenant of his Majesty's royal regiment of artillery, of the one part, and Francis Philip Fatio and Joachim Noel Fainim, of London, merchants, of the other part. Whereas, by an order of council made at the court of St. James, the third day of December, one thousand seven hundred and sixty six, present, the King's most excellent Majesty, his royal highness the Duke of Cumberland, Lord President, Lord Privy seal, Duke of Grafton, Duke of Queensbury, Duke of Auraster, Marquis of Granby, Lord Chamberlain, Earl of Huntington, Earl of Litchfield, Earl of Cholmondoley, Earl of Bristol, Earl of Ashburnham, Eark of Harcourt, Earl Bossborough, Earl Hillsborough, Earl of Sholburn, Viscount Falmouth, Viscount Villiers, Lord Le de Spenser, Lord Bathhurst, Lord Sandy, and Mr. Treasurer of the Household, and Robert Nugent, esquire, reciting that application had been made to his Majesty at that board by Robert Paris Taylor, esquire, who prayed for a grant of lands in his Majesty's province of East Florida, in order to make a settlement thereupon: his Majesty that day took the same into consideration, and having received the opinion of the Lord Commissioners for trade and plantation, and also of a committee of the Lords of his Majesty's most honorable privy council thereupon, was thereby pleased, with the advice of his privy council, to order that the governor or commander in chief of his Majesty's province of East Florida for the time being, should cause ten thousand acres of land in one contiguous tract in such part of the said province as the said Robert Paris Taylor, or his attorney, should choose, not then already granted or surveyed to others; and that upon a return of such survey, conformable to his Majesty's directions, in his general instructions he should pass a grant for the same to the said Robert Paris Taylor, under the seal of the said province, upon the following terms, conditions, and reservations, viz. That the grantee should settle the lands with protestant white inhabitants within ten years from the date of the grant, in the proportion of one person for every one hundred acres; that if one-third of the land was not settled with protestant white inhabitants in the abovementioned proportion within three years from the date of the grant, the whole should be forfeited to his Majesty, his heirs and successors; that such part of the whole tract as was not settled with protestant white inhabitants at the expiration of ten years from the date of the grant, should revert to his Majesty, his heirs and successors; that an annual quit-rent of one half-penny sterling per acre be reserved to his Majesty, his heirs and successors, payable on the feast of St. Michael in every year, to commence and become payable upon one half of the said land on the feast of St. Michael, which should first happen after the expiration of five years from the date of the grant, and to be payable on every ensuing feast of St. Michael, or within fourteen days after, and the whole quantity to be subject in like manner to the like quit-rent at the expiration of ten years; that there should be a reservation to his Majesty, his heirs and successors, of all mines of gold, silver, copper, lead, and coals; that if any of the said lands should appear by the surveyors report to be well adapted to the growth of hemp or flax, it should be a condition of the grant should sow and continue annually to cultivate a due proportion of the land, not less than one acre to every thousand, with that beneficial article of produce, and the governor or commander in chief of his Majesty's province of Florida for the time being, and others whom it may concern, were required to carry his Majesty's commands thereby signified into execution, as by the said order of council reference being thereunto had, will more fully appear. And whereas the-

said ten thousand acres of land have been surveyed for the said Robert Paris Taylor, by James Dolaire, deputy surveyor of East Florida, and by him reported to be situated in the south branch of Nassau river, in the province of East Florida aforesaid. And whereas the said Robert Paris Taylor hath, by indentures of lease and release, the lease bearing date the day before, and the release dated the twenty-fourth of July last, sold, bargained, granted, conveyed, and assigned unto the said John Thomas, his heirs, executors, administrators, and assigns, the said ten thousand acres of land so granted and surveyed, the plan of which said ten thousand acres of land is annexed to the indenture of lease made by the said Robert Paris Taylor to the said John Thomas, as by the said indentures of lease and release, and by the said plan, will more fully and at large appear. Now, this indenture witnesseth, that the said John Thomas, for and in consideration of the sum of five shillings of lawful money of Great Britain to him in hand paid by the said Francis Philip Fatio and Joachim Noel Fainim, the receipt whereof is hereby acknowledged, hath granted, bargained, and sold, and by these presents doth grant, bargain and sell, unto said Francis Philip Fatio and Joachim Noel Fainim, all the aforementioned ten thousand acres of land situated in the south branch of Nassau river, in the province of East Florida aforesaid, together with all the timber growing or to grow thereon, and the reversion and reversions, remainder and remainders, rents and profits of the said land abovementioned, with their and every of their appurtenances. To have and to hold the said lands, hereditaments, and premises abovementioned, and every part and parcel thereof, with their and every of their appurtenances, unto the said Francis Philip Fatio and Joachim Noel Fainim, their executors, administrators, and assigns, from the day next before the day of the date hereof, for and during, and until the full end and term of one year from thence next ensuing, and fully to be complete and ended, yielding and paying therefor at the expiration of the said time one peppercorn if the same shall be lawfully demanded. To the intent, and by virtue of these presents, and of the statute for transferring such possession, they, the said Francis Philip Fatio and Joachim Noel Fainim, may in the actual possession of all and singular the said lands and premises above mentioned, with the appurtenances, and thereby be enabled to arrest and take a grant and release of the said reversion and hereditament thereof, to them and their heirs, to the only proper use and behoof of them, the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, forever.

In witness whereof, he, the said John Thomas, hath hereunto set his hand and seal, the day and year first above written.

JOHN THOMAS. [SEAL.]

Sealed and delivered (being first duly stampt) in the presence of
ABRAM OGIER,
WM. DE LA COUR.

RELEASE FROM JOHN THOMAS TO F. P. FATIO.

Exhibit G.

This indenture made this eleventh day of August, in the tenth year of the reign of our sovereign Lord George the third, by the Grace of God, of Great Britain, France and Ireland, King, defender of the faith, and so forth, and in the year of our Lord one thousand seven hundred and seventy, *be-*

tween John Thomas, lieutenant of his Majesty's royal regiment of artillery, of the one part, and Francis Philip Fatio and Joachim Noel Fainim, of London, merchants, of the other part: *witnesseth*, that the said John Thomas, for and in consideration of the sum of one hundred and ninety-six pounds of good and lawful money of Great Britain to him in hand well and truly paid by the said Francis Philip Fatio and Joachim Noel Fainim, at and immediately before the ensealing and delivery of these presents, the receipt whereof he, the said John Thomas, doth hereby acknowledge, and for divers other considerations, him, the said John Thomas, thereunto moving, hath granted, bargained, sold, aliened, released, and confirmed, and by these presents doth clearly and absolutely grant, bargain, sell, alien, release and confirm, unto the said Francis Philip Fatio and Joachim Noel Fainim, in their actual possession, now being by virtue of bargain and sale to them thereof made for one whole year by indenture bearing date the day next before the day of the date of these presents, and by form of the statute for transferring such into possession, and to their heirs and assigns, forever—all these ten thousand acres of land situate, lying, and being on the south branch of Nassau river, in the province of East Florida, together with all the timber now growing or to grow thereon, as also all woods, underwoods, wastes, paths, watercourses, profits, commodities, advantages, and emoluments, and hereditaments whatsoever, to the said land belonging, or in any ways appertaining, situate, lying and being as aforesaid; and also all the reversion and reversions, remainder and remainders, rents and services, of all and singular the said lands abovementioned, and of every part and parcel thereof, with their and every of their appurtenances; and, also, all the estate, right, title, interest, claim, and demand whatsoever, both at law and equity, of him, the said John Thomas, of, in, and to the same, and of, in, and to every part and parcel thereof, with the appurtenances; and also all grants, deeds, evidences, and writing touching and concerning the said premises, and every part thereof, together with true copies of all other deeds, evidences, and writings which do concern the said premises, or any part thereof, *to have and to hold* all and singular the said lands, hereditaments, and premises above mentioned, and every part and parcel thereof, with their and every of their appurtenances, unto the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, to the only proper use and behoof of the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, forever. And the said John Thomas doth, for himself, his heirs, executors, and administrators, and for every of them, covenant to grant to and with the said Francis Philip Fatio and Joachim Noel Fainim, their heirs, executors, and administrators, and to and with every of them, by these presents, that he, the said John Thomas, shall and will, before the next ensuing the date hereof, before the justices of the court of common pleas at Westminster, in due form of law, levy the said Francis Philip Fatio and Joachim Noel Fainim, and their heirs, our fine sur cognizance de droit come ceo, with proclamations, according to the form of the statute in such case made and provided, of all and singular the lands, hereditaments, and premises aforesaid, by such act, names, quantity and qualities, and number of acres, and in such manner and form as by the said Francis Philip Fatio and Joachim Noel Fainim, their heirs or assigns, or by their counsel learned in the law, shall be reasonably devised, or advised and required. And the said John Thomas, for himself, his heirs, executors, and administrators, and for every of them, doth covenant and grant to and with the said Francis Philip Fatio and Joachim Noel

Fainim, their heirs and assigns, and to and with every of them, by these presents, in manner and form following, (that is to say:) that the said John Thomas now is the true and lawful owner of the said lands and hereditaments, and all and singular other the premises hereby granted, or meant, or intended to be hereby granted, and of every part and parcel thereof, with their and every of their appurtenances, and is rightfully and absolutely seized thereof, and of every part and parcel thereof, and of a good, pure, absolute, and indefeasible estate of inheritance in fee simple, subject only to the conditions aforesaid; and that the said John Thomas now hath good right, lawful and absolute power and authority in himself, to grant, alien, and convey all and singular the lands, hereditaments, and premises hereby granted, or meant, or mentioned, or intended to be hereby granted as aforesaid, and every part and parcel thereof, with the appurtenances, unto the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, to the only use of them, the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns aforesaid; and that the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, and every of them, shall, or lawfully may, from time to time, and at all and every time and times hereafter, have, hold, occupy, use, posess, and enjoy all and singular the said land, hereditaments, and premises, hereby granted or mentioned to be hereby granted, and every part and parcel thereof, with all and singular, their and every of their appurtenances, and all and every the rents, issues, and profits, and commodities thereof arising, accruing and growing, to have service and take without any manner of lett suit, trouble, vexation, eviction, disturbance, or other hindrance or molestation whatsoever, of or by the said John Thomas, his heirs or assigns, or any other person or persons whatsoever lawfully claiming or to claim the said lands and premises, or any part or parcel thereof; and the said lands and hereditaments and premises hereby granted, or mentioned or intended to be hereby granted as aforesaid, and every part and parcel thereof, with all and singular their and every of their appurtenances, now are and be, and from henceforth forever hereafter, shall continue and be unto the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, free and clear, and freely and clearly, and absolutely freed and acquitted, exonorated and discharged, of and from all and all manner of former and other bargains, sales, gifts, grants, feoffments, devises, uses, jointures, dowers, entails, estates, leases, rights, titles, charge of rent, issues, fines, post fines, amercements, debts, duties, judgments, forfeitures, annuities, and incumbrances, whatsoever, had, made, remitted, done, acknowledged, had, or caused to be had, by the said John Thomas, or by any other person or persons whatsoever, save and except as before is excepted; and the said John Thomas, for himself, his heirs, executors, and administrators, and every of them, doth covenant and grant to and with the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, and with every of them, by these presents, that he, the said John Thomas, his heirs and assigns, and all and every other person or persons whatsoever, having or lawfully claiming, or which shall or may at any time or times hereafter have or lawfully claim, any estate, title, or interest of, in, or to the said premises hereby granted, or intended to be granted, or of, or in, or to, any part or parcel thereof, shall and will, from time to time, and at all times hereafter, at and upon the reasonable request, and at the costs and charges in the law of the said Francis Philip Fatio and Joachim Noel Fainim, their heirs or assigns, or some of them, make, do levy, execute, acknowledge, and suffer, or cause to be made, done, acknowledged,

executed, and suffered, and every such farther and reasonable act and acts, thing and things, devise and devises, assurance and assurances, conveyance and conveyances, in the law whatsoever, for the better and more perfect assurance, surety, and sure making and confirming, establishing or confirmation of the said land, hereditaments, and premises hereby granted, or mentioned to be hereby granted, or any part of them, and of every part or parcel thereof, with all and singular, and every of their appurtenances, unto the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, according to the true intent and meaning of these presents, by any ways or means in the law whatsoever, as by the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, or any of them, their, or any of their counsel learned in the law, should be reasonably devised or advised, and required so to do, cause further assurance to be made, or any part of them do not nor shall not contain any further assurance or warrant than for enjoying them only against them thereunto, and their respective heirs, and touching acts and deeds done and suffered by them, or any of them, and so as for the acknowledging and making such further conveyances and assurances, or any of them, the persons that shall be required to make and execute the same, be not compelled nor compellable to travel more than one mile, and to the well performance of all and singular the clauses, conditions, covenants, and agreements, herein contained, he, the said John Thomas, hath hereunto set his hand and seal, the day and year first above written.

JOHN THOMAS. [SEAL.]

Sealed and delivered; being first duly stampt, in presence of
ABRAM OGIER.
WM. DE LA COUR.

Received the day of the date within written, of the within named Francis Philip Fatio and Joachim Noel Fainim, the sum of one hundred and ninety-six pounds, being the consideration within mentioned, to be to me paid.

JOHN THOMAS.

Witness: ABRAM OGIER, WM. DE LA COUR.

EAST FLORIDA, *St. Augustine, Register's Office:*

Recorded in book G, page 165 *a* 174, the 11th day of April, 1774.

DAVID YEATS, *Pub. Register.*

To all to whom these presents shall come, I, Brass Crosby, Esquire, Lord Mayor of the city of London, in pursuance of an act of Parliament made and passed in the fifth year of the reign of his late Majesty, King George the Second, intitulted "An act for the more easy recovery of debts in his Majesty's plantations and colonies in America," do hereby certify that on the date of the date hereof, personally came and appeared before me, William de la Cour, the deponent named in the affidavit hereunto annexed, being a person well known and worthy of good credit, and by solemn oath, which the said deponent then took before me upon the Holy Evangelists of Almighty God, did solemnly and sincerely declare, testify, and depose to be true, the several matters and things mentioned and contained in the said annexed affidavit.

In faith and testimony whereof, I, the said Lord Mayor, have caused the seal of the office of mayoralty of the said city of London to be hereunto put and affixed, and the indentures of lease and release mentioned and referred to in and by the said affidavit to be hereunto also annexed. Dated in London, the seventeenth day of December, in the year of our Lord one thousand seven hundred and seventy.

[SEAL.]

HODGES

William de la Cour, of Lawrence, Pountney Hill, London, gentleman, one of the subscribing witnesses to certain indentures of lease and release, bearing date on or about the tenth and eleventh days of August, one thousand seven hundred and seventy, made between John Thomas, lieutenant of his Majesty's royal regiment of artillery, of the one part, and Francis Philip Fatio and Joachim Noel Fainim, of London, merchants, of the other part, purporting that the said John Thomas had, and thereby did, bargain, sell, and assign unto the said Francis Philip Fatio and Joachim Noel Fainim, their heirs and assigns, ten thousand acres of land, situate, lying, and being in the south branch of Nassau river, in the province of East Florida, maketh oath that he, the said William de la Cour, was present, and did see the said John Thomas sign, seal, and deliver, unto the said Francis Philip Fatio and Joachim Noel Fainim, the abovementioned indentures of lease and release.

WM. DE LA COUR.

Sworn the 17th day of December, 1770, before me, at my mansion house, London.

BRASS CROSBY, *Mayor.*

GRANT TO F. P. FATIO FOR 762 ACRES.

Exhibit H.

EAST FLORIDA.

George the third, by the Grace of God, of Great Britain, France and Ireland, King, defender of the faith, and so forth, to all to whom these presents shall come, greeting: Know ye, that we, of our special grace, certain knowledge and mere motion, have given and granted, and by these presents, for us, our heirs and successors, do give and grant unto Francis Philip Fatio, his heirs and assigns, a plantation or tract of land containing seven hundred and sixty-two acres, in our province of East Florida, situated on a branch of Nassau river, adjoining lands granted to Robert Paris Taylor, bounded north by lands of the late John Grover, east by lands of Robert Paris Taylor, south, partly by lands of the Honorable Mr. Codogan, west by lands petitioned for by John Haley, and all other parts by vacant lands; and hath such shape, form, and marks, as appears by a plat thereof hereunto annexed, together with all woods, underwoods, timber and timber trees, lakes, ponds, fishings, waters, water-courses, profits, commodities, appurtenances, and hereditaments, whatsoever, thereunto belonging, or in anywise appertaining; together, also, with privilege of hunting, hawking and fowling in and upon the same, and mines and minerals: saving and reserving, nevertheless, to us, our heirs and successors, all white pine trees, if any should be found growing thereon, and also saving and reserving to us, our heirs and successors, all mines of gold, silver, copper, lead and coal; to have and to hold the said plantation or tract of seven hundred and sixty-two acres of land, and all and singular other the premises hereby granted unto the said Francis Philip Fatio, his heirs and assigns, forever, in free and common soccage. The said Francis Philip Fatio, his heirs and assigns, yielding and paying therefor unto us, our heirs and successors, or to our receiver general for the time being, or to his deputy or deputies for the time being, yearly, that is to say, at the feast of St. Michael in every year, at the rate of one halfpenny sterling for each acre, and so in proportion, ac-

cording to the quantity of acres contained herein; the same to commence on the feast of St. Michael, which shall first happen after the expiration of two years from the date hereof: Provided always, and this present grant is upon the condition, nevertheless, that the said Francis Philip Fatio, his heirs and assigns, shall and do, within three years from the date hereof, for every fifty acres of plantable land hereby granted, clear and work three acres at least in that part thereof as he or they shall judge most convenient or advantageous, or else to clear and drain three acres of swamp or sunken grounds, or drain three acres of marsh, if any such contained herein; and shall do within the time aforesaid, put and keep upon every fifty acres thereof accounted barren, three neat cattle, and continue the same thereon until three acres for every fifty acres be fully cleared and improved; and if there shall be no part of the said tract fit for present cultivation without manuring and improving the same, he or they, within the time aforesaid, shall be obliged to erect on some part of his land one good dwelling-house, containing at least twenty feet in length, and sixteen in breadth, and to put on his land the like number of three neat cattle for every fifty acres; or otherwise, if any part of the said tract shall be stoney or rocky ground, and not fit for planting or pasture, shall and do, within three years as aforesaid, begin to employ thereon, so continue to work for three years next ensuing, in digging any stone quarry or mine, one good and able hand for every fifty acres, it shall be accounted a sufficient cultivation and improvement: Provided, also, that every three acres that shall be cleared and worked, or cleared and drained as aforesaid, shall be accounted a sufficient seating, cultivation, and improvement, to save, forever, from forfeiture fifty acres of land in any part of the tract hereby granted; and the said Francis Philip Fatio, his heirs and assigns, shall be at liberty to withdraw his or their stock, or forbear working in any quarry or mine in proportion to such cultivation and improvements as shall be made upon the plantable lands, swamps, sunken grounds, or marsh, herein contained, and if the said rent, hereby reserved, shall happen to be in arrear or unpaid for the space of one year from the time it shall become due, and no distress can be found on the said lands, tenements, and hereditaments, hereby granted, that then, and in such case, the said lands, tenements and hereditaments hereby granted, and every part and parcel thereof, shall revert to us, our heirs and successors, as fully and absolutely as if the same had never been granted: Provided, also, if this grant shall not be duly registered in the register's office of our said province within six months from the date hereof, and a docket also entered in the auditor's office of the same, then this grant shall be void, any thing herein contained to the contrary notwithstanding.

Witness our trusty and well beloved Patrick Tonyn, esquire, governor and commander-in-chief in and over our said province, this twenty-seventh day of March, in the year of our Lord one thousand seven hundred and seventy-five, and in the fifteenth year of our reign.

[Seal.]

PAT. TONYN.

Signed by his Excellency the Governor in Council.

DAVID YEATS, *Deputy C. C.*

Register's Office.

Recorded in book B, page 111, the sixteenth day of May, 1775.

DAVID YEATS, *Pub. Reg.*

[Here follows the annexed plat and certificate.]

EAST FLORIDA:

Pursuant to a warrant from his excellency, Patrick Tonyn, governor and commander in-chief in and over his Majesty's said province, to me directed, bearing date the eleventh day of February, Anno Domini 1775, I have caused to be surveyed and measured unto Francis Philip Fatio, esquire, a plantation or tract of land, containing seven hundred and sixty-two acres, situated on a branch of Nassau river, adjoining lands granted to Robert Paris Taylor, bound north by lands of the late John Grover, east by lands of Robert Paris Taylor, south partly by lands of the Hon'ble Mr. Codogan, west by lands petitioned for by John Hely, and all other parts by vacant land; and hath such forms and marks, natural and artificial, as is fully represented in the plat annexed.

Certified this twenty-fourth day of February, Anno Domini 1775.

FRED. GEDE MUHASTER,
Surveyor General.

CERTIFICATE OF SURVEY OF DON P. MARROT.

Exhibit K.

TRANSLATION.

I, Don Pedro Marrot, captain of the 3d battalion of the regiment of infantry of Cuba, and by commission of his excellency the governor and commandant general of the province of East Florida, appointed judge for the distribution of lands ordered to be made by his Majesty, &c.:

Do certify that, in the plantation called the Queen's country seat, three hundred and twenty-six cavallerias and twenty nine acres of land have been measured for, and delivered to, the planter Don Francisco Philipe Fatio, who has proved the same to be his property pursuant to titles from his Britannic Majesty, which he has exhibited to this Government. The first line runs north, seventy three degrees west: *to* commences at a tulip tree marked with a cross, on the margin of the river Nassau, and terminates at a laurel marked in the same manner, and measures three hundred and sixteen chains. The second runs south, seventeen degrees west, it commences at the said laurel, and terminates at a stake with the same mark, bounding on Navet David's land, and measures seventy-seven chains. The third runs south, seventeen degrees west; it commences at a stake marked with a cross, which is the boundary of the lands of the said David, and terminates at a pine with the same mark, and measures one hundred and twelve chains. The fourth runs north seventy-three degrees west; it commences at the said pine, and terminates at another with the same, and measures eighty two chains. The fifth runs south seventeen degrees west; it commences at the said pine, and terminates at another with the same mark, and measures ninety three chains. The sixth runs south seventy-three degrees east; it commences at said pine, and terminates at another with the same mark, and measures four hundred and twenty chains. The seventh runs north seventeen degrees east: it commences at the said pine, and terminates at a tulip tree marked with a cross, on the margin of the south branch of the river Nassau, and measures one hundred and twenty-seven chains. The front of said land runs along the same margin of the south branch of the said river, and the whole is conform to the orders I hold. The interested party signed it with

me, and with Don Josias Dupon, the surveyor. In testimony whereof, and in order that it may serve as a notice to the Secretary's office of this Government, to which the interested party will have to apply for his respective title, I give the present in the Queen's country seat, river Nassau, on the 29th March, 1793.

PEDRO MARROT.

[Here follows the annexed plat.]

ST. AUGUSTINE, *7th August*, 1830.

I certify that the preceding plot and certificate of survey are correctly translated from the Spanish document annexed.

A GAY,
Translator and Interpreter of the Sup. Court.

EXTRACT FROM DIVISION OF F. P. FATIO'S ESTATE.

Exhibit M.

Tenth. And to George Flemming and William Gibson, jointly, shall belong a tract of land on Nassau river, containing ten thousand seven hundred and sixty-two acres.

Eleventh. All the foregoing property, thus divided and delivered, shall be, and is hereby guaranteed and warranted by each heir to the other, to have belonged at the time of division to the estate of Francis P. Fatio, esquire, deceased, and the heirs to the same have hereunto affixed their hands and seals at St. Augustine aforesaid, this twenty-ninth day of May, 1820.

GEO. FLEMMING. [Seal.]
F. P. FATIO. [Seal.]
MARIA TERESA FATIO. [Seal.]
GEO. FLEMMING, F. P. FATIO, *Attys. for* L & J. HALLOWES. [Seal.]
WILLIAM GIBSON. [Seal.]

Witness:
MICHAEL CROSBY.
FRANCIS J. FATIO.
G. W. PERPALL.

Approved and confirmed:

SOPHIA FLEMMING.
FRANCIS J. FATIO.

REPORT OF LAND COMMISSIONERS.

Exhibit P.

REPORT NO. 5.

Register of claims exceeding 3,500 acres, founded on patents granted by the British Government, and which have been recognized as valid by the Spanish Government, and are recommended for confirmation.

Names of present claimants—Sophia Flemming and William Gibson. *Names of original claimant*—Robert Paris Taylor. *Date of patent or*

royal title—18th April, 1771. *Quantity of land*—10,762 acres. *By whom conceded*—Governor Grant. *Conditions*—none. *Date of survey*—29th March, 1793. *By whom surveyed*—James Dupont. *Where situated*—Nassau river. *General remarks.*—The right to this land was recognized by the Spanish Government, and ordered to be surveyed in 1793.

[Here follows the claim of Fatio.]

It is in proof before the board, that the above claims have been recognized by the Spanish Government: they are therefore recommended for confirmation.

DAVIS FLOYD.
GEORGE MURRAY.
W. H. ALLEN.

A copy of the petition of the claimants, with the exhibits thereto annexed, and citation according to law, were delivered to the marshal of this district, to serve on the attorney of the United States for the same district; and the return of the said marshal thereon is in the words and figures following, to wit: "Executed 30th January, 1829, by giving a copy to Thomas Douglass, esquire, U. S. att'y.

WATERS SMITH, *Marshal.*"

And afterwards, to wit, on the ninth day of March, in the year of our Lord one thousand eight hundred and twenty-nine, Thomas Douglass, esquire, United States' attorney for the district of East Florida, brought and filed in the clerk's office aforesaid his answer to the said petition; which said answer is in the words and figures following, to wit:

DISTRICT OF EAST FLORIDA,—*Superior Court.*

ANSWER OF U. S. ATTORNEY.

The answer of Thomas Douglass, United States' attorney for the district of East Florida, to the petition or bill of complaint of William Gibson, Sophia Flemming, Lewis Flemming, Mary Flemming, and George Flemming:

The said Thomas Douglass, as attorney as aforesaid, for and on behalf of the same United States, saving and reserving to them now, and at all times hereafter, all and all manner of benefit of exception to the manifold errors and defects in the said petition or bill of complaint contained, for answer thereunto, or unto so much thereof as it is material and necessary for them to answer unto, on their behalf as aforesaid, answereth, and saith: That it is true as stated in said petition, that after the cession of the Floridas by the British to the Spanish Government, in the said year one thousand seven hundred and eighty-three, the said Government of Spain, by royal order, granted to all foreigners who had been inhabitants of said province of East Florida during the time it was possessed by the said British Government, the liberty of remaining protected in the possession of their lands and property, under the condition of taking the oath of allegiance to the said Government of Spain; and that the claim of said petitioners to said land was submitted to the examination of the board of commissioners appointed under and in virtue of the act of Congress in said petition mentioned, and that it was by said commissioners reported and recommended to Congress for confirmation; and that the said land is embraced by the said treaty between

Spain and the United States, of the twenty-second of February, in the said year one thousand eight hundred and nineteen; and that their said claim has not been decided upon, or finally settled, and that the tract so claimed contains a greater quantity of land than the said commissioners under the said act of Congress were authorized to decide, and above the quantity confirmed by the said act; and that the said claim has not been reported as antedated or forged, and that it hath not been annulled by the aforementioned treaty; but that, of the other matters and things in the said petition or bill of complaint alleged, stated, and set forth, or of the several exhibits thereunto annexed, or of the execution thereof, he, the said attorney, further answering for and on behalf of the same United States as aforesaid, saith that he has no knowledge, except what he has derived from a perusal of the said petition and exhibits, and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court that the said petitioners may be required to prove all the said matters and things in their said petition or bill of complaint alleged, contained, and set forth, as aforesaid, as they are therein stated; and also the making and execution of all the documents which are made exhibits thereunto, and all their allegations respecting the same, and the contents thereof, according to law, and the usages of courts of equity.

And this respondent avers that if any such grant for ten thousand acres of land was ever made by the said James Grant, governor, &c. to the said Robert Paris Taylor, as is in the said petition or bill of complaint alleged, set forth, and described, which is by no means admitted, the said grant was made to the said Robert Paris Taylor, as appears by the showing of the said petitioners themselves, on condition that he should yield and pay unto George the third, King of Great Britain, &c., or to his receiver general for the time being, or to his deputy or deputies for the time being, the annual quit rent of one halfpenny sterling per acre, payable on the feast of St. Michael in every year, to commence and become payable upon one half of the said land on the feast of St. Michael which should first happen after the expiration of five years from the date of the said supposed grant, or within fourteen days after, and the whole quantity was to be subject in the like manner to the like quit-rent at the expiration of ten years, and, upon the further express condition, that the said Robert Paris Taylor, his heirs and assigns, should settle the land so granted with protestant white inhabitants, within ten years from the date of said supposed grant, in the proportion of one for every hundred acres; and that if one-third of the said land was not settled with protestant white inhabitants in the abovementioned proportion in three years from the date of the said supposed grant, the whole was to be forfeited to the said George the third, King of Great Britain, &c. his heirs and successors; and that the said grant, if made as aforesaid, was made expressly, reserving unto the said George the third, King of Great Britain, &c , and his heirs and successors, all white pine trees, if any should be found growing thereon, and, also, all mines of gold, silver, copper, lead and coals, and with a proviso that if the said supposed grant should not be duly registered in the register's office of the said province of East Florida within six months from the date thereof, and a docket also entered in the auditor's office of the same, that then the said supposed grant should be void, any thing therein contained to the contrary notwithstanding.

And this respondent further avers, that one-third of the said tract of land was not settled with protestant white inhabitants, in the above mentioned

proportion, in three years from the date of the said supposed grant, nor was the whole of it settled with protestant white inhabitants within ten years from the date thereof.

And this respondent further avers, that if the said supposed grant was made by the said James Grant, governor, &c., as aforesaid, to the said Robert Paris Taylor, in manner and form as aforesaid, it was made contrary to, and in violation of. the laws, ordinances, and royal regulations of the British Government, which were in force in the said province of East Florida at the time when the said supposed grant is alleged to have been made as aforesaid, providing for the granting of land in said province, and without any power or authority on the part of the said James Grant, governor, &c as aforesaid, to make the same; and that it was never approved by the King of Great Britain, and that it was, and is, wholly null and void, as will fully appear by reference to the said laws, ordinances, and royal regulations, which this respondent prays leave to introduce and read on the hearing of this cause; and this respondent farther saith, that no power had been conferred by the said British Government upon the said James Grant, governor, &c. as aforesaid, at the time when the said supposed grant is alleged to have been made, to make grants of land in East Florida of the magnitude and description of the said supposed grant of ten thousand acres.

And this respondent farther saith, that if any such grant of seven hundred and sixty-two acres was made by the said Patrick Tonyn, governor, &c., to the said Francis Philip Fatio, as is in the said petition or bill of complaint mentioned, alleged and described, which is not admitted, it was made reserving to the said George the third, King, &c. as aforesaid, his heirs and successors, all white pine trees, if any should be found growing thereon, and also all mines of gold, silver, copper, lead and coals, and with a proviso, that if the said supposed grant should not be registered in the register's office of the said province of East Florida within six months from the date thereof, and a docket also entered in the auditor's office of the same, the said grant should be null and void, any thing therein contained to the contrary notwithstanding; and farther, that the said supposed grant, if made at all, was made upon the express condition that the said Francis Philip Fatio, his heirs and assigns, should pay unto the said George the third, King, &c. as aforesaid, certain quit-rent, and, within three years after the date thereof, make certain improvements upon the said land, which said improvements are mentioned, enumerated, and described, in the exhibit of the said petitioners marked H, to their said petition or bill of complaint annexed, and made a part thereof; and, also, that the time for the payment of the said quit rent is mentioned and fixed in the exhibit aforesaid, and that in default of the making of the said improvements or any of them, so mentioned and described as aforesaid, within the said three years from the date of the said supposed grant, or payment of the said quit-rent for one year from the time it should become due, and no distress being upon the said land, the same should revert to the said George the third, King of Great Britain as aforesaid, his heirs and successors, as fully and absolutely as if the same had never been granted, as by the exhibit aforesaid more fully appears; and this respondent saith, that no such improvements were made upon the said land within the said three years from the date of the said supposed grant, as are enumerated and described in the said exhibit; but whether any of the aforesaid quit-rents were ever paid or not, or whether either of the supposed grants aforesaid were registered in the said register's

office, or docketed in the manner required by the said proviso relating thereto, this respondent does not know, and cannot, therefore, either admit or deny the same, but respectfully prays this honorable court that the said petitioners may be required to show and prove on the hearing of this cause, the payments of the said quit-rent, and the registering of the said grants in the register's office aforesaid, and the docketing thereof in the auditor's office of the said province as aforesaid; and farther, that they may be required to show and prove the specific powers which had been conferred upon the said James Grant, governor, &c. as aforesaid, to make grants of land in East Florida at the time when the said supposed grant for ten thousand acres of land is alleged to have been made, and particularly the power under which he claimed to act in making the said supposed grant, if any such was made by him; and as to the said supposed grant for seven hundred and sixty-two acres, the said respondent says that it was competent to the said board of commissioners to acted thereon, and to have definitely settled and determined the claim of the said United States thereto; and that this honorable court has, (and can exercise) no jurisdiction over it, as against the said United States, and prays that this suit, so far as it relates to the said supposed grant of seven hundred and sixty-two acres aforesaid, may be dismissed.

And this respondent farther saith, that the possession meant and intended by the proclamation of the King of Spain of the fifth of April, 1786, in the said petition or bill of complaint mentioned, and herein above alluded to, was not a mere constructive, but an actual possession and occupancy; and that neither the said petitioners, nor any of those persons under whom they claim title, were in the actual possession of either of the said tracts of lands at the time of the transfer of the Floridas from the British to the Spanish Government, nor at the time of the date, (or of the promulgation in East Florida) of the last aforesaid royal order of the King of Spain aforesaid, but that, if they had any possession thereof at all, it was a mere constructive possession, and not such an one as, under the said last named royal order, gave them any title to the said land; and that the said petitioners, and those under whom they claim title, have, by a total failure to occupy, cultivate, improve, or actually possess the said land for the space of more than fifty years last past, entirely forfeited and lost all right and title (if any they, or either of them, ever had) thereto, and every part and parcel thereof, and that the same United States have succeeded to all the right and title in and to the said lands which either the said Government of Great Britain or the said Government of Spain ever had thereto.

And now, having fully answered all the matters and things in the said petition or bill of complaint alleged, this respondent prays that the said United States may be hereof discharged, and that their reasonable costs and charges by them in and about the defence of this suit paid, laid out, and expended, may be adjudged and decreed to them, &c.

THOMAS DOUGLASS,
United States' Attorney, &c.

And afterwards, to wit: on the sixteenth day of July, in the year of our Lord one thousand eight hundred and twenty-nine, the said petitioners, by their said counsel brought, and filed in the clerk's office aforesaid their replication; which said replication is in the words and figures following, to wit:

Superior Court for East Florida.

REPLICATION.

WILLIAM GIBSON and others,
vs.
THE UNITED STATES.

The replication of William Gibson, Sophia Lewis, George and Mary Flemming, petitioners to the answer of Thomas Douglass, esquire, attorney for the United States, defendant.

The replicants, saving and reserving to themselves all and all manner of advantage and exception which may be had and taken to the manifold errors, uncertainties, and insufficiencies of the said answer of the said defendant thereto, for replication thereunto say, that they do and will aver, maintain, and prove their said bill to be true, certain, and sufficient in the law to be answered unto by the said defendant; and that the answer is very uncertain, evasive, and insufficient in the law to be replied unto by these replicants, without that, that any other matter or thing in the said answer contained, material or effectual in the law to be replied unto, and herein and hereby sufficiently replied unto, confessed or avoided, traversed or denied, is true; all which matters and things these replicants are ready to aver, maintain, and prove, as this honorable court shall direct, and humbly pray, as in and by their said petition they have already prayed.

B. A. PUTNAM,
Atty. for Petitioners.

ST. AUGUSTINE, 14*th July*, 1829.

Documents offered and received in evidence in this cause on behalf of the said claimants, and filed herein, to wit:

No. 1.

TRANSLATION.

REPORT OF F. P. FATIO TO SPANISH GOVERNMENT.

Don Francisco Felipe Fatio, a native of Bern, in Switzerland, wishes to remain in the province, and to cause himself to be received a Spanish subject. He has a wife and two children present; he has three white servants, seventy-nine negroes; he owns several country estates, on two of which there are dwelling-houses; he owns another dwelling-house in this city; he has horses, cows, sheep, &c., the precise number of which he does not know.

I, Antonio Alvarez, keeper of the public archives of East Florida, do hereby certify the foregoing to be a true and correct copy of the original entry in a book on file in my office.

Witness my hand and seal of office, at the city of St. Augustine,
[Seal.] Florida, this fifth day of July, A. D. one thousand eight hundred and thirty.

ANTONIO ALVAREZ,
Keeper of the Pub. Archives.

ST. AUGUSTINE, *July 20th*, 1830.

I certify that the preceding is a correct translation of the Spanish original annexed.

A. GAY,
Translator and Interpreter of Sup. Court.

No. 22.

OATH OF ALLEGIANCE OF F. P. FATIO TO SPANISH GOVERNMENT.

TRANSLATION.—1790.

Don Francisco Felipe Fatio, Don Jorge Flemming, Don Gerardo Forrester:

In the city of St Augustine, Florida, the 31st of August of the said year, appeared before his excellency, Don Francisco Felipe Fatio, Don Jorge Flemming, and Don Gerardo Forrester, Catholics, inhabitants of this city, from whom he received the oath which they made by God and the Holy Cross, according to form of law, under which they offered fidelity and allegiance to H. C. M. in this province, obliging himself to comply with and obey the laws, royal ordinances, and other particular or general orders which may be given and published by his excellency or other competent judge, which admission is granted to them provisionally, on the mode of his establishment and conditions, which he ought to observe, to which they are obliged in form of law; and for proof thereof he signed this with his lordship, and the public interpreter, which I attest.

QUESADA.
MIGUEL ISNARDY.
F. P. FATIO.
JORGE FLEMMING.
GERARDO FORRESTER.

Before me,
DOMINGO RODRIGUEZ DE LEON, *Notary of Government.*

No. 3.

Duplicate original.

FINAL ADJUSTMENT OF THE ESTATE OF F. P. FATIO, DECEASED.

Final adjustment of the estate of Francis P. Fatio, esquire, deceased.

PROVINCE OF EAST FLORIDA, *City of St. Augustine.*

The undersigned, heirs of the estate of Francis Philip Fatio, esquire, deceased, viz. George Flemming, on the part of his wife Sophia Flemming, Maria Teresa Magdalena Fatio, wife of the late Philip Fatio, deceased, on the part of her late husband Francis Philip Fatio, for himself, George Flemming and F. P. Fatio on the part of Louisa M. Hallowes and John Hallowes, her husband, authorized by letter of attorney, dated the fourth day of May, in the year of our Lord eighteen hundred and fourteen, executed in Ashford, in the county of Kent, Great Britain, and William Gibson, on the part of his late wife, Mary Gibson, deceased, wishing to bring to an immediate close and final settlement, the affairs of said estate of Francis Philip Fatio, deceased, have agreed and do bind themselves to abide by, and consider as final and decisive, the following articles:

First. The negroes named Madalena, Davy, Sukey, Esther, Susy, Lancaster, Jacob, Will, Peggy, Manuel, Phillis, and Mary, amounting in value to four thousand dollars, and Susannah, Jack, and Simon, considered as of no value, delivered to George Flemming by F. P. Fatio, deceased, on the second day of March, A. D. eighteen hundred, as part of the portion of his

daughter Sophia Flemming, wife of the said George Flemming, for his wife Sophia, with the issue and increase, from the said second day of March, eighteen hundred.

Second. The division of forty nine negroes mentioned in an agreement between Francis P Fatio, for himself and Louisa Hallowes, and for Philip Fatio, as acting for, and having in possession, at the date of that agreement, (viz. the eighteenth day of January, eighteen hundred and thirteen) the property of the estate of F. P. Fatio, deceased, and William Gibson, for his wife Mary Gibson, allowing, granting, and delivering to *F P. Fatio* the negroes named Adam, Lewis, Nanny, Dolly, Dorcas, Molly, Harriet, Betty, Fanny, Frank, Ceasar, and old Nanny; to *Louisa Hallowes* the negroes named Flora, Dublin, Nancy, Lancaster, Hercules, Little John, Boatswain, Minerva, Elsy, Adam, William, Mary, and Johnny and Elsy's child. To *Philip Fatio*, Duck, Molly, Charlotte, Hannah, Grace, Sophia, Toney, Phœbe, Margaret, Philip and Polly; and to *William Gibson*, for his wife *Mary*, the negroes named Patty, Emma, Fanny, Dick, Louisa, Dublin, Cuffee, Scipio, Judy, Celia, Jim and Offy; amounting to three thousand eight hundred dollars for each share, or fifteen thousand two hundred dollars in the total, is hereby declared to be approved, decisive and perpetual; and it is agreed that the increase in value of the negroes named Judy, Jim, and Celia and Offy, received by William Gibson for his wife Mary, of F. P. Fatio, and the issue of Judy, Jim and Offy, as a part of her proportion of his property, shall belong to him, the said William Gibson, for his late wife Mary, and be considered as no part of the estate of the said F. P. Fatio, deceased, and the said estate is considered as indebted to the said William Gibson in the sum of two hundred and fifty dollars, in conformity to the sixth article of the agreement aforementioned, and any part of that article militating against this decision is and shall be void and of no effect.

Third. And the following negroes having been received from the Indian nation, and belong to the estate, are now valued as follows:

Prince -	54 years	$200	Plenty -	20	$450
Lucy -	45	250	Ned -	54 sick.	
Mason -	58	250	Abby -	45	400
Hannah -	48	250	Tom -	17	400
Hercules -	26	500	Davy -	16	400
Friday -	24	500	Judy -	13	250
Toney -	22	500	Moses -	11	250
Frank -	15	350	Eliza -	9	225
Mason -	12	300	Susan -	2 mo.	50
Madalena -	11	250	Philip -	36	500
Jenny -	14	300	O. Hercules	70	
Hercules (Jose)	7	200	Phoebe -	65	
Jack -	4	150	O. Tom -	65	100
Marianna -	35	450	Artemisa -	60	100
Phœbe -	9	250			
Cupid -	7	200			$9,525
Flora -	5	175	Deduct for Elsy	$450	
Offy -	3	150	William	150	
Hannah -	35	450	Elsy's child	75	675
Ben -	10	250			
Abraham -	8	225			$8,850
Lewis -	6	200			
Flora -	2 mo.	50	One fifth for each share		$1,770

And were divided and delivered in the following manner:

To *Mrs. Fatio*, for her late husband P. Fatio:		To *F. P. Fatio:*	
Philip	$500	Mason	250
Plenty	450	Hannah	250
Tom	400	Hercules	500
Davey	400	Friday	500
		Mason	300
	$1,750		$1,800

To *George Flemming*, for his wife *Sophia:*

Frank	$350	Lucy	250
Judy	250	Susan	50
Abby	400		
Moses	250		$1,750
Prince	200		

To *Louisa Hallowes.*		To *William Gibson* for his wife *Mary:*	
Tony	$500	Marianne	450
Madalena	250	Phœbe	250
Jenny	300	Cupid	200
Hercules	200	Flora	175
Jack	150	Offy	150
Lewis	200	Ben	250
O. Tom	100	Eliza	225
Artemisa	100		
Flora	50		$1,700
	$1,850		

Leaving a balance due Mrs. Fatio of twenty dollars; to George Flemming, for his wife Sophia, of twenty dollars, to William Gibson, for his late wife Mary, of twenty dollars; and a balance due to the estate from F. P. Fatio, of thirty dollars; and from Louisa Hallowes, of eighty dollars.

The cause of the deduction for Elsy, William and Elsy's child, is explained in a letter written by F. P. Fatio, esquire, deceased, to his son F. P. Fatio, junior, dated May 18th, 1811, that he had disposed of Elsy to his daughter, Mrs. Sophia Flemming; and William and the infant were born since the date of that sale, and the negroes Mary, Hannah, and Abram, are hereby delivered to Louisa Hallowes in lieu of the above; and it is understood that George Flemming, for his wife Sophia, having received of the first division four thousand dollars in negroes, and the other heirs three thousand dollars each, in that property, he, the said George Flemming, stands indebted to the estate in the sum of two hundred dollars.

The negroes remaining in the Indian nation and elsewhere, named as follows, and to be equally divided among the heirs as soon as they are received, and if any others belonging to the estate should be received, they also shall be immediately divided: Mingo, Betty, Fatima, Jim, Mason, George, Myrtilla, Charles, Pamela, Sophia, Boy, Ruth and child, Sarah and four children, Rose and children, Alick, Joe, Lewis, Juba.

Fourth. The following sums affixed to the lots and lands as a valuation shall be final and decisive, viz.

Three lots of land in St. Augustine, and improvements thereon, four thousand five hundred dollars. 4,500.

A tract of land called New Switzerland, on St. John's river, containing ten thousand acres, fourteen thousand dollars. 14,000.

A tract of land on Nassau river, containing ten thousand seven hundred and sixty two acres, fourteen thousand dollars. 14,000.

Two hundred acres adjoining New Switzerland, called Padan Aram, four hundred dollars. 400.

A tract of land called New Castle, containing seven hundred acres, on St. John's river, fifteen hundred dollars. 1,500.

Two small islands of marsh land opposite New Castle, said to contain 86 acres, fifty dollars. 50.

A tract of land on the east side of Maxwell's creek, commonly called McGirth's, containing five hundred acres, three hundred dollars. 300.

A tract of land on St. John's river, adjoining New Castle, containing four hundred acres, two hundred dollars. 200.

A tract of land on St. Sebastian's creek, about four miles north of St. Augustine fifty dollars. 50.

Fifth. The silver plate, weighing thirty-four pounds and one quarter avoirdupois, was divided among the heirs, and delivered to them, being six pounds fourteen ounces each.

Sixth The following amounts were found to be due to the estate, viz. Vincente Benas' bond, payable 1st. January, 1813, for two thousand eight hundred and fifty-seven dollars. Vincente Benas' note, dated 7th December, 1810, one hundred and eighty dollars. Deduct amount paid by James Cashen $158\frac{90}{100}$, obligation to John C. Acosta, late treasurer, for five hundred and fifty dollars. Balance due by an Indian on the amount, to be paid in cattle, for the balance of sale of George and Myrtilla, five hundred dollars.

Due by George Flemming on 1st dividend of negroes - -	$200
Deduct amount due him on the 2d dividend - - -	20
Say one hundred and eighty dollars - - -	$180
Due by F. P. Fatio in 2d dividend - - - -	30
Deduct amount advanced for clothing for the negroes from Indian nation - - - - - - -	30
Due to Louisa Hallowes on second dividend, eighty dollars, -	80

Seventh. The following were found to be debts due by the estate, viz.

To William Gibson, on the 1st dividend, - -	$250	$320
To do do 2d do - - -	70	
To Mrs. Fatio, on the 2d dividend - - -		20
To John Forbes & Co, balance of acct. - - -		651 07
Interest on do. from 1st January, 1816, a 5 pr. ct.		
To Hopkins & Charles, balance due 1st January, 1805 - -		534 23
Interest from that time.		
To James Cashen's account - - - - -		72 50
Interest from 1st January, 1813.		
To Dr. Gracie's account - - - - -		846 61
Deduct from this 8 bales of cotton, 2,410*lb.*		
To Sadler & Sands' account, about - - -		1,250
To estate Massault's account.		

Eighth. It is agreed, that should any other debts than those stated be-

coming to, or due from, the estate, the heirs shall each and severally receive their proportion of those due to it, and that may be collected, and pay their proportion of those which may be owing by it, that are proven to be due; and all accounts and liquidated demands, of whatever denomination, between the estate and the heirs, are declared to be finally settled up to the present date, except those mentioned in this agreement.

Ninth Whereas a claim has been made through the Spanish Government for damage and losses sustained by the estate in the insurrection or rebellion in East Florida, in 1812, it is agreed that should any part, or the whole of said claim be recovered, whatever account may be recovered shall be equally divided among the heirs.

Tenth. The real estate shall be divided as follows, and the papers appertaining to it shall be immediately delivered with the property to the owners. New Switzerland, containing, as before mentioned. ten thousand acres on St. John's river, shall belong jointly to *Louisa Hallowes* and *Francis P. Fatio*, viz: One half to each. To *Mrs. Maria T. M. Fatio* for *P. Fatio*, deceased, shall belong the three lots of land in the city of St. Augustine, with the improvements thereon. The plantation on St. John's called New Castle, containing, as before mentioned, seven hundred acres. A tract of land on St. John's river, adjoining New Castle, containing four hundred acres; two small islands of marsh opposite to New Castle, said to contain eighty six acres; two hundred acres of land adjoining New Switzerland, called Padon Aram; a tract of land on the east side of Maxwell's creek, commonly called McGirth's creek, containing five hundred acres; and a tract of land on St. Sebastian's creek, about four miles north of St. Augustine; and to *George Flemming* and *William Gibson*, jointly, shall belong a tract of land on Nassau river, containing ten thousand seven hundred and sixty-two acres, viz. one half to each; and, also, jointly (if found to belong to the estate) two tracts of land on Raines' Cowpen creek, on the river Nassau—one containing five hundred acres, and the other two hundred and fifty acres, one half to belong to each, viz. to the said George Flemming and the said William Gibson.

Eleventh. All the foregoing property thus divided and delivered shall be, and is hereby guaranteed and warranted by each heir to the other, to have belonged at the times of division to the estate of *Francis P. Fatio*, esquire, deceased, and the *heirs* to the same have hereunto affixed their hands and seals, at St. Augustine aforesaid, this twenty-ninth day of May, one thousand eight hundred and twenty.

Note.—Having ascertained that the negro Philip has been twice valued and charged in the two divisions to Philip Fatio, deceased, it is agreed that the estate is indebted to the heirs of the said Philip Fatio in the sum of five hundred dollars, to be paid in a negro as valuable as Philip.

GEO. FLEMMING. [Seal.]
F. P. FATIO. [Seal.]
MARIA TERESA FATIO. [Seal.]
GEO. FLEMMING, F. P. FATIO. At'ys. for L. & J. HALLOWES. [Seal.]
WILLIAM GIBSON. [Seal.]

Witness
MICHAEL CROSBY.
FRANCIS J. FATIO.
G. WM. PERPALL.

Approved and confirmed:

SOPHIA FLEMMING.
FRANCIS J. FATIO.

Testimony taken herein on the part of the claimants, before Elias B. Gould, esquire, judge of the county court for St. John's county, and exhibited in evidence, and filed in this cause, to wit:

Superior Court for East Florida.

INTERROGATORIES TO F. P. FATIO.

SOPHIA FLEMMING, LEWIS, GEORGE, and MARY FLEMMING, and WILLIAM GIBSON,
vs.
THE UNITED STATES.

Petition for the confirmation of 10,762 acres of land on Nassau river.

Interrogatories to be administered to Francis P. Fatio, a witness to be sworn and examined in behalf of the claimants in the above entitled cause.

First. Do you know any thing of a certain tract of land that was claimed by Francis P. Fatio, esquire, deceased, situated on Nassau river? If so, please to state in what manner the said Fatio acquired title to said land, and about what time?

Second. Did or did not the said Francis P. Fatio continue in the continued peaceful and quiet possession of said land until his death? and when did the said Francis P. Fatio die, and where?

Third. Did or did not the said Francis P. Fatio continue to reside in East Florida from the time of his acquiring title to said land until his death?

Fourth. To whom did the property of the said Fatio descend on his death?

Fifth. Do you know any thing of a division that was made of the property of said Francis P. Fatio, by and between the heirs of said Fatio? If so, please to look at the annexed document, purporting to be a division of the property of said Fatio, and say whether it be not the same that was made, agreed, and executed by yourself and others, whose signatures are thereto attached, and was it not a final division of the property and estate of said Francis P. Fatio, deceased, among his heirs?

Sixth. Please to state in what manner the said William Gibson, one of the above claimants, acquired title in and to said land?

Seventh. Are you acquainted with the hand-writing of Governor Tonyn? If so, please look at the annexed document, purporting to be a grant made by said Governor Tonyn to Francis P. Fatio, in the year 1775, for seven hundred and sixty two acres of land, and say whether the signature to said grant is that of Governor Tonyn.

B. A. PUTNAM,
Attorney for Claimants.

SOPHA FLEMMING, LEWIS, GEORGE, and MARY FLEMMING and WILLIAM GIBSON,
vs.
THE UNITED STATES.

ANSWERS OF F. P. FATIO TO INTERROGATORIES.

The answers of Francis P. Fatio to the interrogatories propounded to him in this case, taken on the part of the plaintiffs before Elias B. Gould, judge of the county court for the of county St. Johns.

Francis P. Fatio, being duly sworn, in answer to the

First interrogatory, says: That he knows of the tract of land in question, as described in this interrogatory. The said Francis P. Fatio acquired title to said land by purchase from John Thomas, about the year 1770.

Second. The said Fatio continued in the continued, peaceful and quiet possession of said land until his death, which occurred in St. Augustine in 1811.

Third. The said Fatio did reside constantly in East Florida from the time of acquiring title to said land until the time of his death, with his family, and was himself only occasionally absent on service.

Fourth. At the death of Francis P. Fatio the property descended to his children, to wit: the heirs of Lewis Fatio, deceased; to Francis P Fatio, the witness, to Philip Fatio, to Louisa Hallowes, and to Sophia Flemming.

Fifth. Knows of the division referred to. The document here exhibited, subscribed Michael Crosby, Francis J. Fatio, G. W. Perpall, Sophia Flemming, Francis J. Fatio, George Flemming, F P Fatio, Maria Teresa Fatio, George Flemming, F. P. Fatio, attorney for L. & J. Hallowes, and William Gibson, is a final adjustment of the estate of Francis P. Fatio, esquire, and is the original agreement between the parties whose names are thereunto subscribed, and the property of said estate was divided according to said agreement.

Sixth. William Gibson, one of the plaintiffs, acquired title to a part of the estate of said Francis P. Fatio, deceased, by intermarrying with Mary, one of the daughters of said Fatio, deceased.

Seventh. Witness is acquainted with the signature of Governor Tonyn: the deed exhibited dated 24th February, 1775, he believes to be signed by said Tonyn, in his own proper hand-writing.

F. P. FATIO.

Sworn to before me, the 19th June, 1829.

E. B. GOULD, *Judge C. C. St. John's county.*

Cross-examined by Mr. Douglass, U. S. Attorney.

The tract of land of 10,762 acres, which witness has testified to, is the same tract claimed by the petitioners in this suit, and the said Francis Philip remained in possession of it from the time of its purchase until the time of his death. He had a white servant settled on it for a few weeks, and was then recalled, the said Francis Philip not having sufficient force to cultivate two plantations. There was no tenant on the land after that to the day of his death, and he did not cultivate it.

F. P. FATIO.

Taken and sworn to this 19th day of June, 1829.

E. B. GOULD, *Judge county court St. John's county.*

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of July, in the year of our Lord one thousand eight hundred and thirty, to which term this cause had come by regular continuance, to wit, on Monday the seventh day of said term, and the twenty-sixth of said month, the following entry of record was made in this cause, to wit:

EVIDENCE OFFERED BY UNITED STATES.

WILLIAM GIBSON and others, *vs.* THE UNITED STATES OF AMERICA. } Land claim.

This day came the parties, by their solicitors, and the said defendant, by its solicitor, offered in evidence in this case an "extract from the definite treaty of friendship and peace between his Britannic Majesty, the Most Christian King, and the King of Spain, concluded at Paris the tenth day of February, 1763," found in White's compilation at page 258. *Also*, "proclamation of the King of Great Britain," found in White's compilation at 259. *Also*, "British ordinance," found in White's compilation at page 260. *Also*, "Report of the Land Commissioners for West Florida on British claims," found in White's compilation at page 262. *Also* "Royal order, of the Marquis of Sonora to the Governor of St. Augustine of Florida," found in White's compilation at pages 271 and 272. *And, lastly*, "a new decree of the governor to a memorial presented by Don Juan Johnson, St. Augustine, Florida, 30th August 1785," found in White's compilation at page 273: all of which were received in evidence without objection by the counsel for claimants. This cause was then submitted to the court for decision.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-two, to which term this cause had come by regular continuance, to wit, on Saturday, the sixth day of said term, and the twelfth of said month, the following decree of confirmation was entered of record in this case, to wit:

DECREE OF CONFIRMATION.

WILLIAM GIBSON, SOPHIA FLEMMING, widow of George Flemming, deceased, LEWIS FLEMMING, MARY FLEMMING, and GEORGE FLEMMING, children of said George Flemming, deceased, and said Sophia Flemming, all heirs of Francis Philip Fatio, deceased, *against* THE UNITED STATES OF AMERICA. } Land claim for 10,762 acres.

Whereas the above-named claimants, William Gibson, Sophia Flemming, widow of George Flemming, deceased, Lewis Flemming, Mary Flemming, and George Flemming, children of said George Flemming, deceased, and said Sophia Flemming, all heirs of Francis Philip Fatio, deceased, did, in pursuance of the act of Congress of the United States, entitled "An act supplementary to the several acts providing for the settlement and confirmation of private land claims in Florida," and approved 23d day of May, 1828, on the twenty-third day of January, 1829, file their petition for the confirmation of certain lands therein mentioned, in the clerk's office of the superior court for the eastern district of Florida. *And whereas* the attorney of the United States for this district did duly appear and answer said petition, and such proceedings being had herein, as that this claim was submitted to the court for its decree thereon; and the said court having examined the claim of the said petitioners, and the answer of the attorney of the United States, together with the exhibits and evidence filed herein, and having maturely

considered the same, doth *order, adjudge,* and *decree,* that this claim is *valid,* and that, in accordance with the laws and customs of Spain, and under and by virtue of the late treaty of amity, settlement, and limits, between the United States of America and the King of Spain," ratified by the President of the United States on the 22d February, 1821, and under and by virtue of the laws of nations and of the United States, it is hereby *confirmed, adjudged,* and *decreed,* unto the said claimants, to the extent, and agreeably to the boundaries as in the grants and the plat of the survey of said land made by Don Pedro Marrot, and dated 29th March, 1793, and filed herein, is set forth, to wit: "The first line runs north seventy-three degrees west; it commences at a tulip tree, marked with a cross, on the margin of the river Nassau, and terminates at a laurel marked in the same manner, and measures three hundred and sixteen chains. The second line runs south seventeen degrees west; it commences at the said laurel, and terminates at a stake with the same mark, bounding on Navet David's land, and measures seventy-seven chains. The third line runs south seventeen degrees west; it commences at a stake marked with a cross, which is the boundary of the lands of said David, and terminates at a pine with the same mark, and measures one hundred and twelve chains. The fourth line runs north seventy-three degrees west; it commences at said pine, and terminates at another with the same mark, and measures eighty-two chains. The fifth line runs south seventeen degrees west; it commences at the said pine, and terminates at another with the same mark, and measures ninety-three chains. The sixth line runs south seventy-three degrees east; it commences at said pine, and terminates at another with the same mark, and measures four hundred and twenty chains. The seventh line runs north seventeen degrees east; it commences at the said pine, and terminates at a tulip tree marked with a cross on the margin of the south branch of the river Nassau, and measures one hundred and twenty seven chains. The front of said land runs along the same margin of the south branch of the said river."

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of October, in the year of our Lord one thousand eight hundred and thirty-two, to wit, on Friday the fifth day of said term, and the fifth of said month, the following appeal was entered of record in this cause, to wit:

APPEAL.

WILLIAM GIBSON and others,
against
THE UNITED STATES OF AMERICA.
} Land claim 10,762 acres.

This day came Thomas Douglass, esquire, attorney of the United States for this district, and moved the court that an appeal be granted in this case, on behalf of the United States, from the decree of this court to the Supreme Court of the United States; which is granted accordingly.

And afterwards, before the superior court for the eastern district of Florida, holden at the court-house in the city of St. Augustine, at the term of May, in the year of our Lord one thousand eight hundred and thirty-three, to wit, on Tuesday, the nineteenth day of said term, and the eleventh day of June, the following entry of record was made in this cause, to wit:

REVIVAL OF APPEAL.

THE UNITED STATES, *ads.* WILLIAM GIBSON and others. } Land claim 10,762 acres.

Now, on this day came Thomas Douglass, esquire, United States' attorney for the district of East Florida, and suggests to the court now here that, since the granting of the appeal in the above cause to the Supreme Court of the United States, a term of said court has intervened, and that the record herein has not been sent up to the said court: Wherefore, the said attorney, on behalf of the same United States, prays that the said appeal may be revived, and the order therefor extended; and a copy of the record in said cause, duly certified, may be sent up to the said Supreme Court before the first day of the next term thereof, to be holden on the second Monday of January next; and that citation, with notice of said appeal, may be forthwith issued by the clerk of this court to the appellee, and that the same may be served by the marshal of this district upon the said appellee, or his solicitor or agent, and returned to this court within thirty days from the issuing thereof; which is ordered accordingly.

And afterwards, on the same eleventh day of June, A. D. 1833, a citation of appeal in pursuance of the above order was issued in this case; which citation, and the return of the marshal of this district thereon, is in the words and figures following, to wit:

CITATION OF APPEAL.

In the name and by the authority of the United States of America, to William Gibson and others, heirs of Francis Philip Fatio, deceased, or to their agent, attorney, or solicitor, greeting:

You are hereby cited and admonished that an appeal has been taken on the part of the United States, from the decree of the superior court for East Florida to the Supreme Court of the United States, in a certain claim to ten thousand seven hundred and sixty-two acres of land, wherein you, the said William Gibson and others, are claimants, and the said United States respondent; and that the record in said cause will be forwarded to the said Supreme Court to be placed on the docket of said court at the next term thereof to be holden on the second Monday of January next.

Witness, the honorable Robert Reynomd Reid, judge of our said court, at the court-house in the city of St. Augustine, this eleventh day of June, A. D. 1833.

[SEAL.]

GEORGE GIBBS, *Clerk*,
Pr. K. B. GIBBS, *Dep. Clerk.*

THOS. DOUGLASS, *U. S. Attorney for East Florida.*
B. A. PUTNAM, *Attorney for Complainants.*

"Executed by delivering a true copy to B. A. Putnam, esquire, attorney for the within named William Gibson and others, heirs of Francis Philip Fatio, deceased; they not being found in my district. June 18th, 1833.

SAMUEL BLAIR, *Marshal.*"